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Social and human rights questions: crime prevention and criminal justice

Text of the Beijing Declaration, adopted by the Eighth Asia Crime Prevention Foundation World Conference, held in Beijing from 11 to 15 October 2000, submitted by the Asia Crime Prevention Foundation, a non-governmental organization in general consultative status with the Economic and Social Council

The Secretary-General has received the following text, which is being circulated in accordance with paragraphs 30 and 31 of Economic and Social Council resolution 1996/31 of 26 July 1996.

The agenda of the Conference and the Declaration relate directly to priority concerns of the Economic and Social Council, such as extreme poverty and the role of criminal justice in alleviating it and promoting social justice; protection of the environment; conservation of human resources; and safeguards to reduce risk in the use of information technology to bridge the digital divide.

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* E/2001/100.

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Beijing Declaration

adopted by

the Eighth Asia Crime Prevention Foundation World Conference on

Crime Prevention and Criminal Justice

HELD IN BEIJING, PEOPLE'S REPUBLIC OF CHINA
11-15 OCTOBER 2000

THE EIGHTH ASIA CRIME PREVENTION FOUNDATION WORLD CONFERENCE

Welcoming the productive results of the Eighth ACPF World Conference and grateful for the contribution of the Host Government and the Chinese Chapter to its success;

Recalling the conclusions and commitments adopted at the Sixth and Seventh ACPF World Conference, in the Shizuoka and New Delhi Declaration;

Expressing its appreciation and satisfaction on the elevation of the Asia Crime Prevention Foundation to the general consultative status with the Economic and Social Council, which mandates a further expansion of the scope of its work;

Bearing in mind the United Nations Millennium Declaration in which the General Assembly charted the role of the United Nations in the twenty-first century,

Recalling the United Nations commitment to halve by 2015 the proportion of the world's people whose income is less than one dollar a day;

Recalling, also, that the United Nations took a commitment to redouble its efforts to counter the world drug problem and to intensify the efforts to fight transnational crime in all its dimensions, including trafficking in, as well as smuggling of human beings and money laundering,

Emphasizing that the above commitments must now be translated into effective action, and that a strong political will should be its driving force,

Aware of its challenging obligations, which require global and integrated action to address, in a multifaceted way, extreme poverty, sustainable development, protection of the environment, human rights and humanitarian assistance, in the context of the work priorities of the international criminal justice community;

Aware, also, that globalization may create or increase the divisions between countries and peoples in terms of, inter alia, living standards, the provision of and access to information, and the quality of criminal justice administration, and that the negative, aspects of globalization may hamper sustainable development and facilitate the growth of transnational organized crime;

Aware, further, that excessive income differences, accentuated by globalization and economic crises, are exacerbated by destructive financial activities such as tax evasion, money laundering, the flight of capital and diversion of resources through corruption, and other ills conducive to law breaking in the pursuit of illicit financial gains;

Mindful of the goals of the United Nations in the field of crime prevention and criminal justice, especially the reduction of criminality, more efficient and effective law enforcement and administration of justice, respect for human rights and fundamental freedoms, and promotion of the highest standards of fairness, humanity and professionalism, including a better gender balance in staffing criminal justice agencies;

Mindful, also, of the "Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century" of the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which placed foremost emphasis on action against transnational organized crime, to be carried out within the United Nations Crime Prevention and Criminal Justice programme network, including the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention, Intergovernmental and Non-governmental Organizations and the institutes of that network;

Underlying that the ultimate goal of the ACPF is "Prosperity without Crime in Asia and the World";

Welcoming the forthcoming United Nations convention against transnational organized crime which will provide a framework for the international criminal justice community in obtaining training and technical assistance and in developing legislation, regulations and expertise, with a view to facilitating the implementation of the convention and the protocols thereto;

Stressing that the convention and its protocols on trafficking in persons, smuggling of migrants, and firearm regulation, should be implemented in the broader context of eradicating extreme poverty which tends to lead to various forms of trafficking, and operationalized as relevant technical assistance initiatives and projects in United Nations work, including the United Nations Crime Prevention and Criminal Justice Programme,

Stressing, also, the determination of the ACPF to contribute to global and regional action plans and to cooperate with relevant international, regional and national organizations implementing the United Nations priority programmes,

Now, therefore, resolves the following:

I

1. Regional Strategies for the Follow-up of the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

We:

Welcome the commitment of States to establishing and maintaining fair, responsible, ethical and efficient criminal justice systems, and to incorporating crime prevention components into development strategies;

Express the readiness of the ACPF to bring to the attention of government officials the relevance of the prospective United Nations convention against transnational organized crime* for legislative reform and mechanisms to foster national action and international cooperation, including the preparation of regional annotations to the convention;

Invite Governments, as a matter of urgency, to ensure that illegal trafficking in women and children, smuggling of fire arms, drug trafficking, corruption and money laundering are prohibited by criminal laws, with emphasis on gender sensitivity, and the impact of penal and sentencing policy on deterring traffickers and other operatives bringing them to justice by expediting extradition, mutual legal assistance, effective yet humane punishment and public information through the mass media;

Recommend further that since prevention is the most efficient means of controlling crime, the formation and implementation of legislation to prevent the illegal trafficking in

women and children, smuggling of firearms, drug menace, corruption and money laundering should be undertaken by both Governments and the private sector;

Encourage law enforcement agencies to take steps to ensure the capacity to respond effectively to such crimes, including basic training and continuing development of investigation and prosecution skills;

Emphasize that urgent efforts should be made to enhance international cooperation to implement the above recommendations, particularly to harmonize laws for the investigation of crimes relating to the illegal trafficking in women and children, smuggling of firearms, the drug menace, corruption and money laundering, and capacity-building for nations requiring assistance to enable them to collaborate fully in combating transnational crime in these areas;

Endeavour to contribute to the United Nations Crime Prevention and Criminal Justice Programme by providing information and data on transnational organized crime, and on best practices to combat its various forms;

Undertake to contribute other expertise, assistance in kind and funds, with a view to offering, at the request of Member States, guidance and assistance in the implementation of the Vienna Declaration of the Tenth United Nations Congress.

2. Internet-related and other "High-tech" Crimes

We:

Commit ourselves to addressing the challenges of the modern era including problems arising as a side effect of dynamic development of advanced technologies, facilitating the establishment of global conglomerates of illicit activities;

Recognize that Governments, the private sector, non-governmental organization and other stakeholders should contribute to a wider public understanding of cyber-crime and its negative implications for society and economic growth, and that steps should be taken to foster higher ethnical standards of behaviour in cyber-space;

Acknowledge that prevention is the most efficient means of controlling crime, and that the development and implementation of technologies for cyber-crime prevention should be undertaken by both Government and the private sector;

Invite Governments, as the matter of urgency, to ensure that the major forms of computer-related harm be minimized by criminal law, including unauthorized access to computer systems, interference with lawful computer use, destruction or damage to data, theft of intangible property, and improper gain by deception. The laws of evidence and procedure should accommodate search and seizure in an electronic environment, including transborder networks, and should provide for the admissibility of electronic evidence in judicial proceedings;

Recommend that law enforcement agencies maintain the capacity to respond effectively to computer–related crime, including basic training and continuing professional development of investigative skills and computer related forensic technologies;

Encourage Governments and the private sector, including the computer security industry, as well as telecommunication carriers and service providers, to cooperate in order to achieve the common goal of security and prosperity in cyber-space;

Stress that urgent efforts should be made to enhance international cooperation in giving effect to the above recommendations, particularly to harmonize laws relating to cyber-crime investigations, and capacity-building for nations requiring assistance to enable them to collaborate fully in combating transnational cyber-crime;

Pledge the support of the ACPF in the pursuit of governmental and other initiatives toward this end;

Shall work to devise new methods of combating computer-related crime through the training of prosecutors and law enforcement officials to ensure their fullest competence and cooperation;

Shall contribute to the reform of criminal justice systems, to make them more responsive to the new criminal law and penal procedure requirements, so as to increase their impact in dealing with "high-tech" criminals, with more safeguards against Internet-related crime and abuses in electronic transfers and electronic commerce, and with standardized rules of evidence, including its collection, protection, and sharing;

Shall pursue in international fora, as appropriate, the need for elaborating a global instrument to combat crimes related to the Internet and other high-tech crimes, whether as a protocol to the forthcoming United Nations Convention against Transnational Organized

Crime or in any other form, as deemed opportune by of the United Nations Member States, so as to attain greater measure of international cooperation and effectiveness in extradition and other forms of mutual legal assistance in criminal matters;

Shall also pursue other counterstrategies against high-tech crimes at the regional, sub-regional and domestic level, and as public-private sector partnerships.

3. The Role of the Prosecutor in a Changing World

We :

Emphasize that the overriding function of prosecutors is to sustain and advance the rule of law in their respective jurisdictions;

Underline the continuing importance of the United Nations Basic Principles on the Role of Prosecutors:

Recognize the importance of the International Association of Prosecutors' Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors;

Stress that prosecutors should seek constantly to modernize and improve the systems in which they operate, and be sensitive at all times to the needs and aspirations of the societies they serve. They should keep abreast of the latest developments and otherwise maximize the services they provide to their communities;

Stress, also, that prosecutors should ensure the integrity of the criminal justice system; uphold the rule of law, and safeguard the interests of those involved in legal proceedings;

Commit ourselves to enhancing the capacity of prosecutors to prevent, investigate and combat national and transnational cases of environmental crime, organized crime, including their role in transborder and other joint criminal investigations, so that justice is done. This should meet the need for closer international collaboration, including the collection, sharing and protection of criminal evidence and protection of witnesses, leading to the rendering by courts of sentences which, in accordance with the rule of law, will have a greater general and specific deterrent effect on actual and potential offenders, both domestic and foreign;

Recommend the fair and effective conduct of prosecutorial matters, with prosecutors deploying correct procedures and rejecting the use of improperly obtained evidence. Prosecutors should discharge their duties fairly and effectively, without fear or favour. To meet the exigencies of the new age, especially, prosecutors must be independent and impartial in the discharge of their duties and should avoid the politicization of the criminal process. The core values of the prosecutor are of enduring relevance and continued applicability; they may be adapted, but should not be essentially changed;

Recommends, also, that prosecutors should secure their respected position in society by being as transparent as possible, consistent with their duty to protect the interests of suspects and others. They should advance the rights and interests of the suspect, the accused, the victim of crime and all of those who become involved in the prosecutorial process;

Recommends, further, that prosecutors should seek to promote appropriate procedural models and/or guidelines that facilitate the conduct of criminal proceedings involving child victims or child witnesses;

Shall promote the acquisition of greater technological and other skills in order to contribute to the effective combating and prosecution of transnational crime;

Shall, also, promote best practices in combating corruption, including new legal arrangements, permitting the better detection, investigation and reporting of cases of bribery and corruption;

Shall take into account that the right of citizens to initiate private prosecution is an important constitutional safeguard in countries where it is legally guaranteed, which must be respected and preserved, and that prosecutors need to be vigilant to ensure that this right is not used for malicious or other improper reasons to the detriment of the targeted individual. Although prosecutors must modernize their practices in order to cope with sophisticated and secret criminal modes, their responses to these should be measured and considered, not extreme or irrational;

Shall offer their expertise to train groups of prosecutors in special transborder investigation techniques and interagency cooperation between law enforcement agencies, and to assist courts dealing with sophisticated organized crime cases;

Shall encourage impartial investigations into cases of alleged corruption, promote anti-corruption educational programmes, and independent mass media coverage to help uncover corruption and enhance sentencing policies, developed in the context of the United Nations Code Of Conduct for Public Officials and other international instruments;

Pledge their support for the further implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, and to enhance prosecution policies concerning transnational organized crime, so as to achieve better results, with increased seizures and confiscation of objects and assets, curtailing the illicit flow of people, firearms, drugs and other illicit objects throughout the world;

Pledge, also, their support for the establishment and development of anti-corruption measures within the prosecution service as a prerequisite for effective, humane and fair justice administration;

4. Ways and Means of Enhancing the Rehabilitation Function of Corrections

We :

Urge the relevant authorities to continue working on developing rational, humane and responsive sentencing policies that are equally fair and equitable in actual practice, regardless of whether dealing with the rich or poor;

Continue to recommend that institutional treatment should be resorted to only as a measure of last resort, when an offender poses a real threat to public security and social tranquillity;

Commit ourselves to strengthening our efforts to combat overcrowding in prisons, which defeats the rehabilitative function of corrections, by reviewing as a standing practice the managerial and technical precepts of correctional administration, in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners;

Shall, further, promote the more widespread application of community-based sanctions, which have still not been adequately implemented at the domestic level, despite a comprehensive international strategy reflected in the United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules) and the United Nations Rules for the Administration of Juvenile Justice (Beijing Rules);

Call upon concerned authorities to establish or strengthen appropriate linkages between formal correctional services and community-based welfare resources, including non-governmental organizations, so as to invigorate the processes of reformation, rehabilitation and social reintegration of offenders;

Call also upon concerned authorities to review the status of implementation of human rights safeguards in custody, in consonance with legal requirements and limitations imposed because of incarceration;

Urge the use of principles of restorative justice, including mediation and indigenous means, to improve the treatment of offenders and victims, and to conserve valuable human resources that could be mobilized to serve development goals and nation-building activities;

Advise that community-based sanctions should demonstrate to the public and the offender the importance of community values and a more responsive approach, consonant with local needs and conditions, and with welfare, cultural, security and economic requisites;

5. The Role of Criminal Justice in the Alleviation of Extreme Poverty

We:

Call upon Governments, intergovernmental and non-governmental organizations, development aid agencies and the representatives of civil society to recognize that poverty alleviation programmes can succeed only within the framework of social justice, for which rule of law is a basic precondition;

Commit ourselves, to elaborating and implementing projects targeting the poorest persons in conflict with the criminal law and providing them with legal assistance before criminal justice agencies, to ensure that United Nations treaties and obligations, including right to defence, are applied to the fullest extent;

Commit ourselves, further, to elaborating and implementing projects strengthening the capacity of law and criminal justice mechanisms to deal more imaginatively, resolutely, effectively and efficiently with criminal investigations of alleged corrupt officials acting

above the law to the detriment of the poorest people and other victims of corruption;

Invite Governments, intergovernmental and non-governmental organizations, development aid agencies and representatives of civil society to carry out poverty alleviation programmes in the context of the civil, political, economic, social and cultural rights that everyone is entitled to, irrespective of status and means;

Invite, also, Governments to adopt concerted measures against all forms of domestic, transnational and international criminality further impairing the well-being of persons living in extreme poverty;

Express deep concern about the growing instrumental use of the poor in crimes such as trafficking in drugs, and the exploitation of persons for the purpose of prostitution, which further marginalize the poor from the social mainstream;

Encourage criminal justice administrations to identify areas of legal intervention to facilitate the process of poverty alleviation;

Support creating databases and policies based on best practices to fight such relevant crimes as tax evasion, corruption, capital outflow and various forms of illegally diverting funds in the framework of broader policies to alleviate poverty.

II

We, finally,

Pledge our support for the work of the United Nations in promoting crime-free sustainable development, protection of the environment, human rights and humanitarian assistance, and commit ourselves to the achievement of these goals;

Request the ACPF, in cooperation with the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, to implement the recommendations contained in the present Declaration, and to report on the progress made in this regard to the Ninth Asia Crime Prevention Foundation World Conference on Crime Prevention and Criminal Justice, in particular by establishing and/or continuing working groups on the relevant topics, including;

(a) the role of criminal justice in the alleviation of extreme poverty;

(b) the preparation of the regional annotations to the prospective United Nations convention against transnational organized crime, including strategies for implementation of the Vienna Declaration of the Tenth United Nations Congress;

(c) Combating corruption;

(d) Restorative justice, including mediation;

III

Thank the Host Government and the ACPF Chapter of the People's Republic of China for the generous invitation to convene the Eighth World Conference in Beijing,

Express our deep gratitude to this ACPF Chapter for the excellent organization of Eighth World Conference, which has greatly contributed to its success;

IV

Request the United Nations Economic and Social Council. through the Commission on Crime Prevention and Criminal Justice, to bring to the attention of Member States, intergovernmental and non-governmental organizations in consultative status with the Council, the text of this Declaration with the aim of strengthening common understanding among nations and peoples of the world in our joint efforts for greater justice and less crime, and for a more secure and prosperous twenty-first century.